Rochester Tel Center
180 South Clinton Avenue
Rochester, New York 14646

716-777-1028
Fax: 716-546-7823

Michael J. Shortley, III

DOCKET FILE COPY ORIGINAL

RochesterTel

June 27, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED

JUN 28 1994

FCC MAIL ROOM

Re: CC Docket No. 94-1

Dear Mr. Caton:

Enclosed for filing please find an original plus nine (9) copies of the Reply Comments of Rochester Telephone Corporation in the above-dcoketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

Michael J. Shortley, III

cc: International Transcription
Service

Legal: 272.1 June 27, 1994 (8:04am)

No. of Copies rec'd 0+9
List ABCDE

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Price Cap Performance Review
for Local Exchange Carriers

CC Docket No. 94-1

REPLY COMMENTS OF
ROCHESTER TELEPHONE CORPORATION

Michael J. Shortley, III

Attorney for Rochester
Telephone Corporation

180 South Clinton Avenue
Rochester, New York 14646
(716) 777-1028

June 27, 1994

Table of Contents

Summary

Rochester submits this reply to the comments received in response to the Commission's Notice initiating this proceeding. The Notice and the comments address a multitude of issues. In this reply, Rochester will focus upon three issues of overriding importance: (1) sharing; (2) the productivity offset; and (3) pricing flexibility. For the Commission's price cap rules to achieve their greatest potential, the Commission must both remove all remaining ties to cost-of-service regulation and permit exchange carriers to price their services in a manner consistent with the increasingly competitive nature of the interstate access market. Toward this end, the Commission must fundamentally alter its price cap rules in three respects.

First, the Commission must eliminate the sharing and lower formula adjustment mechanisms. These mechanisms continue to tie exchange carrier performance to cost-of-service regulation. Although the current version of price cap regulation is decidedly superior to traditional cost-of-service regulation, it still maintains many of the inefficiency-inducing incentives of cost-of-service regulation. The current version of price cap regulation will produce only 18% of the efficiency incentives of a pure price cap regime. Those parties that advocate retention of the sharing mechanism misconceive the role that realized earnings should play in the Commission's regulatory paradigm. Increased earnings do not, as some parties suggest, imply that exchange carriers' rates are unjust or unreasonable. The Commission should concern itself with the absolute level of exchange carriers' rates. It is undeniable that rates for interstate access have fallen substantially since price cap regulation was initiated. If rates are falling substantially over time, that some exchange carriers have been able to increase their earnings reflects the efficiency-

generating incentives of price caps. Retention of the sharing and lower formula adjustment mechanisms will continue to dilute those incentives, to the detriment of both exchange carriers and interstate access customers.

Second, the Commission, in conjunction with eliminating the sharing and lower formula adjustment mechanisms, should establish the productivity offset no higher than 4.3%. In addition, the Commission should decline to order up-front rate reductions, as suggested by several parties.

The credible record evidence establishes that the original productivity offsets established by the Commission (3.3% or 4.3%, with differing sharing boundaries) are the maximum that should be established. Although Rochester does not address every study produced in the comments, a fundamental flaw recurs throughout those studies that advocate an increase. They are based upon assumed -- or realized --rates of return. In particular, in advocating a 5.9% productivity offset, AT&T merely calculates what the productivity offset should have been such that exchange carriers would have earned at the 11.25% authorized rate of return. This reasoning is circular at best. In establishing a productivity offset, the Commission should attempt to measure total factor productivity. The AT&T approach merely attempts to introduce cost-of-service regulation through back-door manipulations to the productivity offset.

Similarly, requests that the Commission decree an up-front rate reduction -- either to account for an alleged reduction in the cost of capital since 1990 or to account for an alleged imbalance in the common line formula -- are misplaced. These requests also amount to no more than a plea that the Commission continue to regulate the earnings of exchange carriers. To the contrary, however, exchange carriers' earnings should be largely irrelevant to the regulatory paradigm. Rate levels, not earnings, are the correct benchmark and those levels have fallen under price caps.

Third, the Commission should afford exchange carriers increased pricing flexibility in response to their individual circumstances. Rochester agrees with those parties that advocate structural tests for determining when increased pricing flexibility is warranted. The USTA proposal represents precisely such an approach.

Moreover, the assertions that the interstate access business today is not competitive and that exchange carriers already possess too much pricing flexibility are wrong. Interstate access services are highly competitive today, as evidenced by the successes of competitive access providers. This business will only become more competitive as a result of the Commission's pro-competitive initiatives. The current rules provide too little -- not too much -- pricing flexibility.

The discussion on this issue also demonstrates one important fact, namely, that a "one-size-fits-all" regulatory approach is totally inappropriate. With the implementation of its Open Market Plan, Rochester will open all facets of its exchange operations to competition. The Commission should -- and must -- take such individualized circumstances into account in refining its price cap rules.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Price Cap Performance Review for Local Exchange Carriers

CC Docket No. 94-1

REPLY COMMENTS OF ROCHESTER TELEPHONE CORPORATION

Introduction

Rochester Telephone Corporation ("Rochester") submits this reply to the comments received in response to the Commission's Notice initiating this proceeding.[1] The Notice and the comments address a multitude of issues. In this reply, Rochester will focus upon three issues of overriding importance: (1) sharing; (2) the productivity offset; and (3) pricing flexibility. For the Commission's price cap rules to achieve their greatest potential, the Commission must both remove all remaining ties to cost-of-service regulation and permit exchange carriers to price their services in a manner consistent with the increasingly competitive nature of the interstate access market. Toward this end, the Commission must fundamentally alter its price cap rules in three respects.

First, the Commission must eliminate the sharing and lower formula adjustment mechanisms. These mechanisms continue to tie exchange carrier performance to cost-of-service regulation. Although the current version of price cap regulation is decidedly

---

1 Price Cap Performance Review for Local Exchange Carriers, CC Dkt. 94-1, Notice of Proposed Rulemaking, FCC 94-10 (February 16, 1994) ("Notice").

superior to traditional cost-of-service regulation, it still maintains many of the inefficiency-inducing incentives of cost-of-service regulation. As Strategic Policy Research describes, the current version of price cap regulation will produce only 18% of the efficiency incentives of a pure price cap regime.[2]

Those parties that advocate retention of the sharing mechanism misconceive the role that realized earnings should play in the Commission's regulatory paradigm. Increased earnings do not, as some parties suggest,[3] imply that exchange carriers' rates are unjust or unreasonable. The Commission should concern itself with the absolute level of exchange carriers' rates. It is undeniable that rates for interstate access services have fallen substantially since price cap regulation was initiated.[4] If rates are falling substantially over time, that some exchange carriers have been able to increase their earnings reflects the efficiency-generating incentives of price caps. Retention of the sharing and lower formula adjustment mechanisms will continue to dilute those incentives, to the detriment of both exchange carriers and interstate access customers.

Second, the Commission, in conjunction with eliminating the sharing and lower formula adjustment mechanisms, should establish the productivity offset no higher than 4.3%. In addition, the Commission should decline to order up-front rate reductions, as

---

[2] Strategic Policy Research, Regulatory Reform for the Information Age: Sharing the Vision at 23, Table 23 (1994) ("SPR Report").

[3] E.g., AT&T at 23-30; MCI at 31.

[4] USTA at 15; Rochester at 5.

suggested by several parties.[5]

The credible record evidence establishes that the original productivity offsets established by the Commission (3.3% or 4.3%, with differing sharing boundaries) are the maximum that should be established. Although Rochester does not address every study produced in the comments, a fundamental flaw recurs throughout those studies that advocate an increase. They are based upon assumed -- or realized --rates of return. In particular, in advocating a 5.9% productivity offset, AT&T merely calculates what the productivity offset should have been such that exchange carriers would have earned at the 11.25% authorized rate of return.[6] This reasoning is circular at best. In establishing a productivity offset, the Commission should attempt to measure total factor productivity. The AT&T approach merely attempts to introduce cost-of-service regulation through back-door manipulations to the productivity offset.

Similarly, requests that the Commission decree an up-front rate reduction -- either to account for an alleged reduction in the cost of capital since 1990 or to account for an alleged imbalance in the common line formula[7] -- are misplaced. These requests also amount to no more than a plea that the Commission continue to regulate the earnings of exchange carriers. To the contrary, however, exchange carriers' earnings should be largely irrelevant to the regulatory paradigm. Rate levels, not earnings, are the correct benchmark

---

5 E.g., AT&T at 31; MCI at 27..

6 AT&T at 22-23.

7 E.g., AT&T at 31-33; MCI at 27-28.

and those levels have fallen under price caps.

Third, the Commission should afford exchange carriers increased pricing flexibility in response to their individual circumstances. Rochester agrees with those parties that advocate structural tests for determining when increased pricing flexibility is warranted.[8] The USTA proposal represents precisely such an approach.

Moreover, the assertions that the interstate access business today is not competitive and that exchange carriers already possess too much pricing flexibility[9] are wrong. Interstate access services are highly competitive today, as evidenced by the successes of competitive access providers. This business will only become more competitive as a result of the Commission's pro-competitive initiatives. The current rules provide too little -- not too much -- pricing flexibility.

The discussion on this issue also demonstrates one important fact, namely, that a "one-size-fits-all" regulatory approach is totally inappropriate. With the implementation of its Open Market Plan,[10] Rochester will open all facets of its exchange operations to competition. The Commission should -- and must -- take such individualized circumstances into account in refining its price cap rules.

---

8 E.g., USTA at 57-66.

9 E.g., CompTel at 4-6; ALTS at 3-4.

10 See Petition of Rochester Telephone Corporation for Approval of Proposed Restructuring Plan, Case 93-C-0103, Joint Stipulation and Agreement (N.Y.P.S.C. May 16, 1994).

Argument

I. The Commission Should Eliminate the Sharing and Lower Formula Adjustment Mechanisms.

In adopting its original price cap rules, the Commission introduced the sharing and lower formula adjustment mechanisms as protections against uncertainties in the calculation of the productivity offset, its application to an entire industry and the like.[11] While these mechanisms may have been appropriate with the initiation of price caps, they are highly inappropriate today. Retention of these mechanisms will continue to dilute the efficiency-generating incentives of price caps.

Fundamentally, the Commission should concern itself with the absolute levels of rates for interstate access services. Under the current form of price cap regulation, those levels have fallen substantially. Cost-of-service regulation carries with it -- as the Commission has recognized[12] -- certain inefficiency incentives. Many of the efficiency-enhancing incentives of the current form of price caps likely would not have been realized over the preceeding three years had traditional cost-of-service regulation remained in effect.[13]

---

11 Policy and Rules Concerning Rates for Dominant Carriers, CC Dkt. 87-313, Second Report and Order, 5 FCC Rcd. 6786, 6801-05 (1990) ("Second Report and Order").

12 Notice, paras. 11-12.

13 Thus, claims that price cap regulation has not been successful because -- at current levels of expenses and investment, rates today would be lower under cost-of-service regulation (e.g., Ohio Consumers Counsel at 2-3) -- totally miss the point. The cost structures of exchange carriers' operations would not be what they are today had traditional cost-of-service regulation remained in effect.

Pure price caps -- by eliminating any remaining cost-of-service constraints on exchange carrier performance -- will only further enhance the benefits of price caps. As Strategic Policy Research describes, the Commission could multiply significantly the efficiency-generating incentives of price caps by eliminating the sharing and lower formula adjustment mechanisms.[14] This is true because carriers will reap the full benefits of any productivity improvements that they achieve, rather than retaining only a portion of those benefits, as they do today.[15] To the extent that rates are falling in real terms over time, the Commission should view increased profitability not with suspicion, but as the reward for efficient operations. This is precisely the type of risk/reward mechanism that exists in markets that are not price-regulated -- a regime price cap regulation is designed to replicate.[16]

Certain of the parties that favor retention of the sharing mechanism inadvertently demonstrate the need for its elimination. MCI, for example, wants the Commission to scrutinize fourth quarter earnings adjustments to ensure that exchange carriers are not manipulating the sharing and lower formula adjustment mechanisms.[17] Were the Commission to eliminate these mechanisms, the need even to raise such allegations would

---

[14] SPR Report at 23.

[15] Similarly, by eliminating the lower formula adjustment mechanism, exchange carriers will bear the full risk of any mistakes that they make. Elimination of this backstop will provide a powerful incentive for exchange carriers to conduct their operations efficiently.

[16] Notice, para. 23.

[17] MCI at 33-34.

not exist. Similarly, a variety of the Commission's rules that are necessary under a regime that contains any cost-of-service constraints -- such as cost allocation, affiliate transaction and related rules -- would become completely unnecessary if the Commission were to eliminate the sharing and lower formula adjustment mechanisms. Exchange carriers could reap no benefit from engaging in the type of conduct that such rules are designed to prevent. Thus, the need for the Commission to expend its valuable and limited resources in monitoring such activities would disappear. The Commission, exchange carriers and interstate access customers could devote their resources to more productive endeavors.

Earnings constraints -- such as the sharing and lower formula adjustment mechanisms -- dilute the efficiency-generating incentives of price cap regulation. They also introduce a variety of collateral burdens on the Commission and the industry. Elimination of such constraints will further compel productivity gains that will benefit exchange carriers, their interstate access customers and the economy in general. The Commission should modify the existing price cap plan to sever all remaining ties to cost-of-service regulation.

II. Changes in the Productivity Offset or Up-Front Rate Reductions Are Unwarranted.

Several parties urge the Commission to increase the productivity offset contained in the price cap formula from the current 3.3% or 4.3% to somewhere in the 5-6% range.[18] They also suggest that the Commission compel up-front rate reductions allegedly to account for a lower cost of capital that exists today compared to conditions that existed

---

[18] E.g., AT&T at 22-25; Ad Hoc at 21 n.20; MCI at 18-22.

when the Commission last prescribed the authorized rate of return.[19] The Commission should reject both requests. These requests amount to no more than a suggestion that exchange carriers give back whatever efficiency gains that they have achieved during the initial price cap period. As the Commission has recognized,[20] such a result would destroy the efficiency-enhancing incentives that price cap regulation is intended to produce. If price cap regulation is truly to achieve its intended purpose, the Commission must completely sever any remaining ties to cost-of-service regulation.

In addition, there is no reason to believe that the productivity offsets the Commission selected were incorrect or that exchange carriers' costs of capital have changed substantially since 1990.

A. Changes to the Productivity Offset or Up-Front Rate Reductions Would Undermine the Purposes of Price Cap Regulation.

Requests that the Commission alter the existing productivity offsets or initiate up-front rate reductions represent no more than pleas that the Commission continue some form of cost-of-service regulation. As Rochester demonstrates below,[21] the substantive bases for those claims lack any foundation. More importantly, they represent an

---

19 E.g., AT&T at 31-33; MCI at 27-29.

Certain parties also suggest that an up-front rate reduction is warranted to account for an alleged imbalance in the common line formula. See, e.g., AT&T at 26-27.

20 Notice, para. 45.

21 See infra at 9-12.

unwarranted assault on price cap regulation itself.

In adopting its price cap plan, the Commission established the rules under which exchange carriers were to operate for the next four years. During that time, exchange carriers have achieved significant productivity gains. As a result, both exchange carriers and their interstate access customers have benefited. Exchange carriers' earnings have generally increased while, at the same time, interstate access rates have fallen substantially.[22]

Were the Commission to attempt to recapture all efficiency gains that exchange carriers have produced -- either through a change to the productivity offset or through an up-front rate reduction -- it would eliminate the efficiency-generating incentives of price cap regulation. If, over the long term, exchange carriers cannot retain the benefits of their efforts, the incentive to operate as efficiently as possible will be eroded substantially. A cycle of periodic review followed by returning all benefits to customers would negate any incentive for exchange carriers to undertake the effort to improve productivity beyond the bare minimum required by the price cap formula. Such an approach would be counterproductive at best.

B. The Commission Should Adopt a Productivity Offset No Greater Than 4.3%.

Several parties claim that the current offsets of 3.3% or 4.3% are too low.[23] The

---

[22] See Notice, paras. 25-26.

[23] See Ad Hoc at 18-21; AT&T at 22-25; MCI at 18-22.

credible record evidence, however, is to the contrary. Although Rochester does not discuss the details of every study advocating a higher offset introduced into the record,[24] it notes a fundamental flaw in those approaches, particularly AT&T's.

In suggesting that the Commission raise the productivity offset to as high as 5.9%, AT&T merely calculates what the level of the productivity offset should have been for exchange carriers to have earned the 11.25% authorized rate of return.[25] The assumptions underlying AT&T's analysis are specious, at best. The AT&T study does not measure productivity; it amounts to no more than a backcast rate-of-return analysis. AT&T's study simply attempts to utilize the productivity offset as surrogate for a rate-of-return target. This approach to productivity analysis is fundamentally inconsistent with price cap regulation. It assumes that exchange carriers should only earn at a specified level. Yet, price cap regulation permits exchange carriers to retain the benefits that they achieve by outperforming the established productivity offset.[26] AT&T's study, on its face, cannot suggest that the existing productivity offset is incorrect.

For its part, MCI suggests that the existing offset is too high because the

---

24 In its reply comments, USTA addresses in detail the infirmities of the studies suggesting that the Commission should raise the productivity offset.

The Christensen study (USTA, Att. 6) provides the best estimate that the productivity offsets already in place are the maximum that should be established.

25 AT&T at 22-25.

26 Notice, para. 43.

Commission included the 1984 data point in its short-term productivity study.[27] MCI is wrong. In its original order, the Commission did not rely solely upon the short-term productivity study. It also relied upon the results of a longer-term study performed by the Commission's Staff.[28] Moreover, the Commission has already resolved this issue. There is no reason for it to be revisited years later. Finally, had the 1984 data point been excluded from the original short-term study, use of the remaining data points would have produced statistically unreliable results.

Neither the record nor experience suggests that the Commission -- in conjunction with the elimination of the sharing and lower formula adjustment mechanisms -- should establish a productivity offset greater than 4.3%.

C. The Commission Should Eliminate Any Rate-of-Return Benchmark.

The Commission should reject requests that it represcribe the existing, authorized rate of return. As Rochester describes above,[29] the Commission should view exchange carriers' earnings as virtually an irrelevant factor under price caps. Moreover, the assumption underlying these requests -- namely, that exchange carriers' costs of capital have fallen dramatically since 1990 -- are incorrect. Exchange carriers' earnings under price caps are generally consistent with those of comparable firms that operate in markets that are not price-regulated. Their earnings are, for example, comparable to a composite

---

[27] MCI at 21-22.

[28] See Second Report and Order, Apps. C, D.

[29] See supra at 5-7.

earned rate of return for the Standard & Poors 400 over the preceding three years. They are also comparable to AT&T's earnings during the preceding four years. This comparability in earned returns strongly suggests that there is no basis for the Commission to initiate another represcription proceeding, even if such an effort were not totally inconsistent with the purposes and goals of price cap regulation. There is no basis for the Commission to order an up-front rate reduction to account for an allegedly lower cost of capital.[30]

Increases in the productivity offset or up-front rate reductions are completely inconsistent with the goals and purposes of price cap regulation. Adopting such measures would do no more than force exchange carriers to return all of the benefits of any productivity improvements they have achieved during the initial price cap period. Unless the Commission permits exchange carriers to retain, on a long-term basis, the benefits of such improvements, the goals that the Commission envisioned for price cap regulation will become unobtainable. The record evidence, moreover, supports no such changes.

III. The Commission Should Adopt a Plan That Affords Increased Pricing Flexibility Based Upon Objective Competitive Criteria.

USTA has proposed an access charge reform proposal -- which the Commission

---

[30] Nor, as some parties suggest (e.g., AT&T at 26-28) is there any alleged imbalance in the common line formula. The existing 50/50 common line formula recognizes that exchange carriers contribute to growth in minutes per common line. As access rates fall, so also do rates for interstate toll services, thereby stimulating demand for such services. Thus, the existing formula strikes the correct balance. Neither an up-front rate reduction nor a prospective change to the formula is warranted.

should and must consider as part-and-parcel of this proceeding[31] -- that will provide an appropriate mechanism for the transition to a fully competitive access environment. The parties that contend that such action is premature or unnecessary -- principally because exchange competition does not yet exist in any meaningful fashion -- are incorrect. Competition for interstate access services is strong today and will grow in the future. Thus, claims that exchange carriers already possess inordinate pricing flexibility misconceive the facts. Finally, the Commission should reject any unfounded notion that a "one-size-fits-all" regulatory approach is either necessary for or appropriate to the regulation of an increasingly diverse exchange carrier industry.

A. Access Competition Is Substantial Today and Will Continue To Grow Rapidly.

Those parties that suggest the Commission need not concern itself with a plan to transition the regulation of exchange carriers in light of competitive developments because such competition will not occur until well into the future[32] are wrong. Access competition -- particularly for those services and geographic areas that competitive access providers and others have targeted -- is significant today. As USTA has demonstrated,[33] competitive

---

31 Those parties that assert that the Commission should defer consideration of these issues to other proceedings (e.g., MCI at 62-63) are mistaken. The Part 61 price cap tariff and the Part 69 access charge structure rules are integrally related. Changes in one set of rules necessarily affect the other set of rules. In this comprehensive review, the Commission should take the opportunity to refine its price cap plan to the full extent necessary.

32 E.g., Time Warner at 6-8; Ad Hoc at 32.

33 USTA at 32-36.

access providers are capturing an increasingly large share of the access -- particularly, the special access -- business. Moreover, the Commission's Expanded Interconnection[34] and Transport Restructure[35] initiatives will facilitate increased competition, as will similar initiatives at the state level. The technology explosion within the industry will also make competition inevitable. Indeed, such competition is a fact today.

Despite the obvious competitive significance of alternative sources of access services today, certain parties attach great significance to the claim that exchange carriers still provide 98-99% of local exchange and exchange access services today.[36] Although the statistic may be true, it is totally irrelevant to the issues presented to the Commission.[37] In the first instance, market share statistics are not a particularly relevant indicator of

---

34 Expanded Interconnection with Local Telephone Company Facilities, CC Dkt. 91-141, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd. 7369 (1992), vacated sub nom. Bell Atlantic Telephone Companies v. Federal Communications Commission, No. 92-1619 (D.C. Cir. June 10, 1994).

Although the District of Columbia Circuit vacated the Commission's mandatory collocation requirements, the Commission has taken other steps -- e.g., rate unbundling -- that will facilitate access competition. Moreover, despite claims to the contrary, it is not at all clear that collocation is a necessary prerequisite to access competition. In Rochester, for example, MFS/FiberNet appears to be doing well despite its not having subscribed to Rochester's tariffed expanded interconnection offering -- an offering that Rochester does not intend to withdraw.

35 Transport Rate Structure and Pricing, CC Dkt. 91-213, Report and Order and Further Notice of Proposed Rulemaking, 7 FCC Rcd. 7006 (1992).

36 E.g., CompTel at 4; MCI at 65.

37 In this vein, WilTel contends that, regardless of the level of local service competition, each local service provider itself would become a "bottleneck" between interexchange carriers and end users. WilTel at 20. This contention ignores the obvious point that, if WilTel is dissatisfied with a particular local service provider, it may encourage end users to switch local service providers in order to obtain the benefits of the long distance services that WilTel provides.

market power in an industry that is in transition from a government-sanctioned monopoly to a competitive industry, as AT&T itself has argued in the past.[38] Second, this approach simply ignores the successes of competitive access providers and others in competing with exchange carriers in those particular market segments in which they have chosen to participate.

These parties also assert -- again without logical or factual support -- that exchange carriers already possess too much pricing flexibility.[39] The contrary, in fact, is true. The Commission's price cap rules -- including zone density pricing[40] -- provide exchange carriers with some pricing flexibility. No party, however, asserts that this flexibility comes anywhere close to the degree of pricing flexibility afforded to exchange carriers' competitors. For highly competitive service and geographic markets (or sub-markets), the Commission's rules merely erect an artificial price umbrella under which exchange carriers' competitors may safely price their services. This does no more than distort economically efficient decision-making, benefitting no one save the protected class of competitor.

---

38 See, e.g., Competition in the Interstate Interexchange Marketplace, CC Dkt. 90-132, Report and Order, 6 FCC Rcd. 5880, 5882 (1991).

39 E.g., MFS at 14-16; Teleport at 24.

40 In light of Bell Atlantic, it is not altogether clear how the Commission's trigger points for the implementation of zone pricing will provide exchange carriers with any additional pricing flexibility.

B. The Commission Should Adopt an Appropriate Transition Plan.

The comprehensive transition plan set forth by USTA in its comments,[41] should be adopted. Access competition is here to stay. The Commission should consider -- in this proceeding, as it has proposed[42] -- a plan to provide for less stringent forms of regulation, as and when circumstances warrant. The USTA plan sets forth specific, objective criteria by which the Commission may determine when certain services and geographic areas should be subject to more streamlined forms of regulation.[43]

Moreover, those parties that oppose Commission consideration of a transition plan seem to forget that the USTA proposal is only a plan. It does not provide instant pricing flexibility. Rather, it is tailored to provide such flexibility as objectively verifiable circumstances warrant. The industry is in far too great a state of flux -- competitively and technologically -- for the Commission to defer consideration of a transition plan that will provide the framework to permit exchange carriers to respond to the specific competitive conditions facing them.

---

41 USTA at 57-66.

42 Notice, para. 94.

43 Certain parties suggest that the USTA plan is flawed because it tailors the degree of regulation to the degree of competition. This, it is alleged, will saddle customers of less competitive services with a disproportionate share of exchange carriers' costs. See CompTel at 16; MFS at 15. The concern is unfounded. Tighter regulation of those services that are less competitive will prevent exchange carriers from offsetting price reductions for more competitive services with price increases for less competitive services. Moreover, price decreases for more competitive services will occur in any event. Streamlining the regulation of more competitive services will merely permit exchange carriers to compete on a basis comparable to that afforded their competitors.

C. A "One-Size-Fits-All" Regulatory Paradigm Is Inappropriate.

Certain parties suggest that the Commission should not tailor its regulatory regime to the circumstances facing individual exchange carriers.[44] These parties are wrong. Exchange carriers are not -- if they ever have been -- a monolithic group. Each exchange carrier faces its own particular circumstances and responds in light of those circumstances and perceptions. Under its Open Market Plan,[45] for example, Rochester has decided to open its local exchange operations fully to competition. The Open Market Plan embraces the competitive principles espoused by Teleport[46] and AT&T,[47] among others. In considering the issues raised in this proceeding, the Commission should -- and must -- take such individualized circumstances into account.

---

44 E.g., ICA at 24.

45 See supra at 4 n.10.

Among the signatories to this settlement is Time-Warner, a company that fully intends to compete with Rochester in the provision of local exchange services.

46 Teleport at 8-9.

47 AT&T at 16-17.

Conclusion

For the foregoing reasons, the Commission should act upon the proposals contained in the Notice in the manner suggested herein and in Rochester's initial comments.

Respectfully submitted,

Michael J. Shortley, III

Michael J. Shortley, III

Attorney for Rochester
Telephone Corporation

180 South Clinton Avenue
Rochester, New York 14646
(716) 777-1028

June 27, 1994

Certificate of Service

I hereby certify that, on this 27th day of June, 1994, copies of the foregoing Reply Comments of Rochester Telephone Corporation were served by first-class mail, postage prepaid, upon the parties on the attached service list.

Michael J. Shortley, III

Michael J. Shortley, III